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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,474	08/19/2002	Helmut Ulmer	SPM-344-A	1141

7590 08/30/2005

Andrew R Basile
Young & Basile
Suite 624
3001 West Big Weaver Road
Troy, MI 48084-3107

EXAMINER

RHEE, JANE J

ART UNIT	PAPER NUMBER
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1745

DATE MAILED: 08/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding..

Office Action Summary

Application No.

10/089,474

Applicant(s)

ULMER, HELMUT

Examiner

Jane Rhee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 11-13 and 15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 11-13, 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Rejections Withdrawn

1. The 35 U.S.C. 102(e) rejection of claims 1-2,4-9 anticipated by Kawakubo has been withdrawn due to applicant's amendment filed on 6/16/2005.
2. The 35 U.S.C. 103(a) rejection of claim 3 over Kawakubo in view of Rahmstorf et al. has been withdrawn due to applicant's amendment filed on 6/16/2005.
3. The 35 U.S.C. 112 2nd paragraph rejection of claims 1,6,7,10,13 has been withdrawn due to applicant's amendment filed on 6/16/2005.
4. The 35 U.S.C. 112 2nd paragraph rejection of claims 6,8,13 has been withdrawn due to applicant's amendment filed on 6/16/2005.
5. The 35 U.S.C. 112 2nd paragraph rejection of claim 7 has been withdrawn due to applicant's amendment filed on 6/16/2005.
6. The 35 U.S.C. 102(e) rejection of claims 10-14 anticipated by Kawakubo et al. has been withdrawn due to applicant's amendment filed on 6/16/2005.

New Rejections

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-2,4-6,11-13,15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leonard et al. (5626357) in view of Kawakubo et al. (6065771).

As to claim 1 and 15, Leonard et al. discloses a moulded decorative film (figure 2 number 18) having a break line in a predetermined penetration area, the break line predetermined by a cross sectional weakness, the cross sectional weakness being a notch (figure 2 number 28) commencing in the first surface and terminating in the film before the second surface characterized that the notch is covered by a welded region of an outer layer (figure 2 number 20 and 26). As to claim 2 and 11, Leonard et al. discloses that the cross sectional weakness is continuous internal notch following the course of the break line at least partially (figure 2 number 28). Leonard et al. fail to disclose that the decorative film consist of thermoplastic material. Leonard et al. teaches that the film is made of foam. Kawakubo et al. teaches a foam layer polyurethane resin for the purpose of providing a cushion layer (col. 5 line 55).

Therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide Leonard et al. with a decorative film that consist of a thermoplastic material such as polyurethane in order to provide a cushion layer (col. 5 line 55).

As to claims 4-5 and 12, the thermoplastic material skin produced by thermoforming or form-sintering or produced by injection, casting or spraying process is a process limitation, process limitations are given little or no patentable weight. The method of forming the product is not germane to the issue of patentability of the product itself. Further, when the prior art discloses a product which reasonably appears to be either identical with or only slightly different than a product claim in a product-by-process claim, the burden is on the Applicant to present evidence from which the

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Examiner could reasonably conclude that the claimed product differs in kind from those of the prior art. *In re Brown*, 459 F.12d 531, 173 USPQ 685 (CCPA 19712); *In re Fessman*, 489 F.12d 7412, 180 USPQ 3124 (CCPA 1974). This burden is NOT discharged solely because the product was derived from a process not known to the prior art. *In re Fessman*, 489 F.12d 7412, 180 USPQ 3124 (CCPA 1974).

As to claims 6 and 13 Leonard et al. discloses that the decorative film is constructed of at least two layers (figure 2 number 16 and 18) wherein at least one layer consists of thermoplastic material (col. 2 line 49).

8. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Leonard et al. in view of Rahmstorf et al. (6106003).

Leonard et al. discloses the decorative film described above. Leonard et al. fail to disclose that the cross sectional weakness is a row of a large number of individual internal notches following the course of the break line at least partially. Rahmstorf et al. teaches the cross sectional weakness is a row of a large number of individual internal notches following the course of the break line at least partially (col. 5 lines 5-8) for the purpose of improving the technique of tearing open of the cover (col. 4 lines 12-13).

Therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide Leonard et al. with the cross sectional weakness is a row of a large number of individual internal notches following the course of the break line at least partially in order to improve the technique of tearing open of the cover (col. 4 lines 12-13) as taught by Rahmstorf et al.

Response to Arguments

9. Applicant's arguments with respect to claims 1-6,11-13,15 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jane Rhee whose telephone number is 571-272-1499. The examiner can normally be reached on M-F 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jane Rhee
August 24, 2005



PATRICK JOSEPH RYAN
SUPERVISORY PATENT EXAMINER